

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

PHILLIP PAUL FIGURES,

Plaintiff,

VS.

FEDERAL BUREAU OF PRISONS,
USP FLORENCE COUNTY PRISON,

Defendants.

Case No. 2:13-cv-00247-WTL-MJD

Order Dismissing Complaint and Directing Further Proceedings

Phillip Paul Figures, an inmate at the United States Penitentiary in Terre Haute, Indiana, filed this civil action against the Federal Bureau of Prisons and the United States Penitentiary in Florence, Colorado (USP-Florence). Figures alleges that while incarcerated at the USP-Florence he was traumatized and falsely imprisoned for fifteen days.

I.

Figures shall have **through July 31, 2013**, in which to either pay the \$ 400.00 filing fee for this action or demonstrate that he lacks the financial ability to do so. If he seeks leave to proceed *in forma pauperis*, his request must be accompanied by a copy of the transactions associated with his institution trust account for the 6-month period preceding the filing of this action on July 2, 2013.

II.

The complaint is now subject to the screening requirement of 28 U.S.C. § 1915A(b). This statute directs that the court dismiss a complaint or any claim within a complaint which “(1) is

frivolous, malicious, or fails to state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant who is immune from such relief.” *Id.* Figures complaint is deficient for the following reasons:

First, the complaint fails to state a claim upon which relief may be granted. The complaint is purportedly brought pursuant to 42 U.S.C. § 1983, but § 1983 applies to state (not federal) actors. It is *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971), which authorizes the filing of constitutional tort suits against federal officers in much the same way that 42 U.S.C. § 1983 authorizes such suits against state officers¹⁰ *King v. Federal Bureau of Prisons*, 415 F.3d 634, 636 (7th Cir. 2005). But, the United States, and its agencies, including the Bureau of Prisons, are not proper defendants in a *Bivens* action, *King v. Federal Bureau of Prisons*, 415 F.3d 634, 636 (7th Cir. 2005). “[A]bsent a waiver, sovereign immunity shields the Federal Government and its agencies from suit.” *FDIC v. Meyer*, 510 U.S. 471, 484–86 (1994). As presented the complaint fails to provide any basis on which the court could conclude that the United States has waived its sovereign immunity as to the allegations in the complaint.

Second, Rule 8(a)(3) of the Federal Rules of Civil Procedure requires that a pleading contain a demand for the relief sought. No demand for relief is stated in the complaint.

Third, the complaint is not signed as required by Rule 11 of the Federal Rules of Civil Procedure.

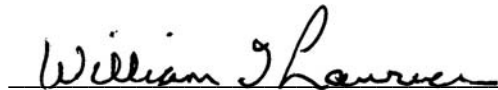
For all of these reasons, the complaint is dismissed.

III.

The dismissal of the complaint will not in this instance lead to the dismissal of the action. Instead, Figures shall have **through July 31, 2013**, in which **to file an amended complaint** which corrects the deficiencies noted above.

In filing an amended complaint, the plaintiff shall conform to the following guidelines: (a) the amended complaint shall comply with the requirement of Rule 8(a)(2) of the *Federal Rules of Civil Procedure* that pleadings contain “a short and plain statement of the claim showing that the pleader is entitled to relief. . . .,” (b) the amended complaint shall comply with the requirement of Rule 10 that the allegations in a complaint be made in numbered paragraphs, each of which should recite, as far as practicable, only a single set of circumstances, (c) the amended complaint must identify what legal injury he claims to have suffered and what persons (or entities) are responsible for each such legal injury, and (d) the amended complaint shall contain a clear statement of the relief which is sought.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "William T. Lawrence", is written over a horizontal line.

Hon. William T. Lawrence, Judge
United States District Court
Southern District of Indiana

Date: 7/12/13

Distribution:

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